

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Pay Child Support Online Inc,)
Plaintiff,) Civil Action No.: 02-CV-1321 (DWF/SRN)
v.)
Affiliated Computer Services, Inc. and)
ACS State & Local Solutions, Inc.)
Defendants,)

ACS State & Local Solutions, Inc.) DEFENDANT AND
Counter-Plaintiff,) COUNTER-PLAINTIFF
v.) ACS STATE & LOCAL
Pay Child Support Online Inc and) SOLUTIONS, INC.'S
Daniel J. King,) ANSWER AND COUNTERCLAIM
Counter-Defendants.

In lieu of filing an Answer, Defendant AFFILIATED COMPUTER SERVICES, INC. ("ACS, Inc.") will file a Motion to Dismiss under Rule 12(b)(1) of the Federal Rules of Civil Procedure. *See Letter Regarding Defendant ACS, Inc.'s Motion to Dismiss, filed concurrently herewith.* This Answer and Counterclaim, therefore, is being filed on behalf of Defendant ACS STATE & LOCAL SOLUTIONS, INC. ("ACS State & Local") only.

ACS State & Local for its Answer to the Complaint of Plaintiff and Counter-Defendant PAY CHILD SUPPORT ONLINE INC ("Pay Child Support"), and for its Counterclaim against Pay Child Support and DANIEL J. KING ("Daniel King"), whom Counter-Plaintiff ACS State & Local adds to this lawsuit as a Counter-Defendant under Rules 13(h) and 20(a) of the Federal Rules of Civil Procedure, states and alleges as follows.

DEFENDANT'S ANSWER AND COUNTERCLAIM
CIV. ACTION NO. 02-CV-1321 (DWF/SRN)
1433637v1

JURISDICTION AND VENUE

1. ACS State & Local admits that the Complaint makes allegations under the Patent Laws of the United States, Title 35, United States Code. ACS State & Local admits that the Plaintiff seeks a declaratory judgment that U.S. Patent No. 6,119,107 ("the '107 patent") and presumably U.S. Patent No. 5,946,669 ("the '669 patent") are invalid, but ACS State & Local denies that the '107 patent and the '669 patent are invalid.

2. ACS State & Local admits that this Court has jurisdiction over the subject matter of the Complaint under §§ 1331 and 1338(a) as to itself, but denies that this Court has jurisdiction over the subject matter of the Complaint under §§ 1331 and 1338(a) as to ACS, Inc. *See Letter Regarding Defendant ACS Inc.'s Motion to Dismiss, filed concurrently herewith.*

3. ACS State & Local denies that venue is proper in this judicial district under 28 U.S.C. § 2201. ACS State & Local further denies that venue is proper in this judicial district solely under 28 U.S.C. §§ 1391(b)(1) and (2). ACS State & Local admits that venue is proper in this judicial district under 28 U.S.C. §§ 1391(c).

THE PARTIES

4. ACS State & Local is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 4 of the Complaint, and therefore denies those allegations. Upon information and belief, Pay Child Support is a corporation organized under the laws of the State of Minnesota with a business address of 6600 Pleasant Avenue, Suite 143, Richfield, MN 55423.

5. ACS State & Local denies that ACS, Inc. is organized under the laws of the State of New York. ACS State & Local admits that ACS, Inc. is a publicly held corporation. ACS

State & Local admits that it is a publicly held corporation incorporated under the laws of the State of New York and that it is a wholly-owned subsidiary of ACS, Inc. ACS State & Local admits that a web-based electronic funds transfer system for employers to submit child support withholdings electronically is presently advertised at www.expertpay.com and will be available in August 2002. ACS State & Local admits that this system is covered by the claims of the '669 patent and the '107 patent.

6. ACS State & Local admits that Jeffrey A. Rich is the President and CEO of ACS, Inc. and that ACS, Inc.'s principle place of business is 2828 North Haskell, Dallas TX 75204.

7. ACS State & Local admits that John Brophy is Group President of ACS State & Local. ACS State & Local admits that it was formerly known as Lockheed Martin IMS Corporation ("LM IMS"). ACS State & Local admits that its principle executive office is located at 300 Frank W. Burr Blvd., Teaneck, NJ 07666. ACS State & Local admits that it has substantial operations at 1200 K Street NW, Washington, DC 20005 and 1133 15th Street NW, 10th Floor, Washington, DC 20005. ACS State & Local admits that subsidiaries of ACS, Inc. have offices in Minnesota and existing Minnesota job opportunities of these subsidiaries are listed on the web site www.acs-inc.com, but ACS, Inc. does not have offices in Minnesota and is not registered for business in Minnesota. ACS State & Local admits that it does business in Minnesota. ACS State & Local denies the remaining allegations contained in Paragraph 7 of the Complaint.

8. ACS State & Local admits the allegations contained in Paragraph 8 of the Complaint, with the exception of the statement that ACS, Inc. employs more than 38,000 people. ACS, Inc. employs more than 30,000 people.

9. ACS State & Local denies the allegations contained in Paragraph 9 of the Complaint as to ACS, Inc., but admits the allegations contained in Paragraph 9 of the Complaint as to ACS State & Local.

10. ACS State & Local admits the allegations contained in Paragraph 10 of the Complaint as to only ACS State & Local. ACS State & Local denies that CT Corporate Systems, located at 405 Second Avenue South, Minneapolis, MN, is ACS, Inc.'s registered agent in Minnesota.

11. ACS State & Local admits the allegations contained in Paragraph 11 of the Complaint as to only ACS, Inc.

CONTROVERSY

12. ACS State & Local admits that ACS State & Local, and not ACS, Inc., is the current owner of the '107 patent, that the '107 patent is a divisional of the application that issued as the '669 patent, that copies of the '107 and '669 patents are attached as Exhibits A and B, respectively, of the Complaint, that John Polk is the inventor of the '107 patent and the '669 patent, that John Polk was an employee of LM IMS at the time the '107 and '669 patents were filed and were issued, and that LM IMS was purchased by ACS, Inc. for approximately \$850 million in 2001. ACS State & Local denies that LM IMS was a division of Lockheed Martin Corporation; LM IMS was a wholly owned subsidiary of Lockheed Martin Corp. ACS State & Local asserts that the '107 patent speaks for itself as to what it covers and that its title, "Method and Apparatus for Payment Processing Using Debit-Based Electronic Funds Transfer and Disbursement Processing Using Addendum-Based Electronic Data Interchange," generally

describes the subject matter of the patent. ACS State & Local denies the remaining allegations contained in Paragraph 12 of the Complaint.

13. ACS State & Local admits that one or more claims of the '107 patent and the '669 patent cover the Pay Child Support web application.

IMMINENT THREAT OF LITIGATION

14. ACS State & Local admits that it filed suit for patent infringement against Eftchilddsupport.com, LLC ("Eftchilddsupport") in the United States District Court for the Middle District of Pennsylvania on October 29, 2001, Civil Action No. 1:CV 01-2060. ACS State & Local is without knowledge or information sufficient to form a belief as to the truth of whether Eftchilddsupport had been in operation since June of 2000, and therefore denies those allegations. ACS State & Local admits that, under Paragraph 4 of the Order of Judgment issued by Judge Sylvia Rambo of the Middle District of Pennsylvania (Attachment 3 of the Complaint), Eftchilddsupport had to terminate the infringing web site at www.eftchilddsupport.com and cease all infringing activity no later than July 31, 2002. Judge Rambo's March 15, 2002 Order also found U.S. Patent No. 6,119,107 to be valid and enforceable. ACS State & Local denies the remaining allegations contained in Paragraph 14 of the Complaint.

15. Upon information and belief, ACS State & Local admits that Daniel King was an officer of Pay Child Support and is a former employee of Tier Technologies, Inc. ("Tier Technologies"). ACS State & Local is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 15 of the Complaint, and therefore denies those allegations.

16. ACS State & Local denies the allegations as set forth in Paragraph 16 of the Complaint, but wishes to present its understanding and belief of the events discussed in this Paragraph. On or about March 18, 2002, Daniel King was at ACS State & Local's proposal center located at 1133 15th Street NW, Washington, DC as a representative of Tier Technologies to work on the Ohio State Disbursement Unit ("SDU") project. ACS State & Local and John Polk, an employee of ACS State & Local, were aware of the Pay Child Support website and had information that Daniel King was affiliated with Pay Child Support. John Polk specifically asked Daniel King if he or Tier Technologies were involved in any way with Pay Child Support. Daniel King replied that Tier Technologies was not involved with Pay Child Support in any way, intentionally omitting any reference to his role as President and CEO of Pay Child Support. John Polk explained that any such involvement would be a conflict of interest and would preclude access to the proposal center, showed Daniel King the front page of the Middle District of Pennsylvania's Order of Judgment against Eftchilddsupport.com, LLC, and explained that ACS State & Local protected its patent rights. Following this discussion, Daniel King again stated that there was no involvement between Tier Technologies and Pay Child Support, and again intentionally omitted any reference to his role as President and CEO of Pay Child Support. ACS State & Local therefore admits the events stated above and denies the allegations contained in Paragraph 16 of the Complaint.

17. ACS State & Local is without knowledge or information sufficient to form a belief as to the truth of whether Pay Child Support contacted the State of Michigan on May 23, 2002, and therefore denies this allegation contained in Paragraph 17 of the Complaint. ACS State & Local admits that it has a contract with the State of Michigan to operate Michigan's child

support payment services ("the Michigan SDU"). ACS State & Local admits that sometime during or after May 2002, a representative of the Michigan SDU informed ACS State & Local about an inquiry made by Pay Child Support.

18. ACS State & Local denies the allegations contained in Paragraph 18 of the Complaint that Mr. Wiggins and Mr. Polk meet and communicate regularly, if not daily, in furtherance of the Tier-ACS State & Local teaming arrangement. ACS State & Local is without knowledge or information sufficient to form a belief as to the truth of the allegations regarding Mr. Wiggins's position at Tier Technologies, and therefore denies this allegation contained in Paragraph 18 of the Complaint. ACS State & Local challenges the allegations concerning any non-public teaming arrangements between ACS State & Local and Tier Technologies as a potentially improper disclosure of confidential information. ACS State & Local admits the remaining allegations contained in Paragraph 18 of the Complaint.

19. ACS State & Local is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 of the Complaint, and therefore denies those allegations.

20. ACS State & Local admits the allegations contained in Paragraph 20 of the Complaint.

21. ACS State & Local is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21 of the Complaint, and therefore denies those allegations.

22. ACS State & Local denies the allegations contained in Paragraph 22 of the Complaint. ACS State & Local admits that John Polk forwarded Daniel King's June 9, 2002

email to ACS State & Local's in-house counsel on June 10, 2002. ACS State & Local admits that ACS State & Local and its in-house counsel had not yet responded to Daniel King before the filing of the Complaint less than two weeks later by Pay Child Support on June 21, 2002.

23. ACS State & Local is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 23 of the Complaint, and therefore denies those allegations.

24. ACS State & Local denies the allegations contained in Paragraph 24 of the Complaint.

25. ACS State & Local denies the allegations contained in Paragraph 25 of the Complaint.

26. ACS State & Local denies the allegations contained in Paragraph 26 of the Complaint.

FACTS: PATENT'S [SIC] '669 & '107 INVALIDITY &/OR UNENFORCEABILITY

27. ACS State & Local incorporates by reference its responses in Paragraphs 1 through 26 of this Answer and Counterclaim.

28. ACS State & Local admits that applications having Serial Nos. 08/941,187 ("the '187 application") and 09/003,941 ("the '941 application") were filed with the U.S. Patent and Trademark Office and named John Polk as the inventor. ACS State & Local denies that John Polk was an employee of Lockheed Martin Information Management Systems at the times the '187 application and the '941 application were filed. ACS State & Local admits that John Polk is the inventor of the '107 and '669 patents, that John Polk was an employee of LM IMS at the times the '187 application and the '941 application were filed, and at the time those applications

issued as the '669 and '107 patents, respectively. ACS State & Local admits that LM IMS was the assignee of the '669 and '107 patents at one time. ACS State & Local admits that the '187 application that issued as the '669 patent was filed on September 30, 1997.

29. ACS State & Local denies the allegations contained in Paragraph 29 of the Complaint on the basis that it is not clear what time is implicated by the term "[a]t that time."

30. ACS State & Local admits that, at the time the '187 and '941 applications were filed, LM IMS had a significant market share of private child support payment processing contracts. ACS State & Local admits that John Polk and LM IMS held themselves out to have expertise in the industry, and that LM IMS was involved in child support processing in several states. ACS State & Local denies the remaining allegations contained in Paragraph 30 of the Complaint.

31. ACS State & Local denies the allegations contained in Paragraph 31 of the Complaint.

32. ACS State & Local denies the allegations contained in Paragraph 32 of the Complaint.

33. ACS State & Local denies the allegations contained in Paragraph 33 of the Complaint.

34. ACS State & Local denies the allegations contained in Paragraph 34 of the Complaint.

35. ACS State & Local denies that the Child Support Application Banking Convention is at the core of either the '669 or '107 patent, and denies that the '187 and '941 applications would not have been possible without the Child Support Application Banking

Convention. ACS State & Local is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 35 of the Complaint, and therefore denies those allegations.

COUNTERCLAIM

Counter-Plaintiff ACS State & Local, for its Counterclaim against Counter-Defendants Pay Child Support and Daniel King, states and alleges as follows.

Jurisdiction and Venue

36. This is an action seeking redress for patent infringement under the Patent Laws of the United States, Title 35, United States Code (Counts 1 and 2), for fraudulent misrepresentation under Minnesota common law (Count 3), for a violation of Section 43(a) of the Lanham Act, i.e., Section 1125(a) of Title 15, United States Code (Count 4), for violations under the Minnesota Deceptive Trade Practices Act, Minn. Stat. §§ 325D.43-.48 (Count 5), and for defamation of a business organization under Minnesota common law (Count 6).

37. This Court has subject matter jurisdiction under the provisions of 15 U.S.C. § 1121(a) and 28 U.S.C. §§ 1331, 1332, 1338(a), and 1367(a).

38. This Court has personal jurisdiction over Counter-Defendants Pay Child Support and Daniel King. Pay Child Support has alleged that it is incorporated under the laws of the State of Minnesota (Complaint, ¶ 4), and upon information and belief, this information is correct. Upon information and belief, Daniel King is domiciled in the State of Minnesota.

39. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). ACS State & Local transacts business both in the State of Minnesota and with the State of Minnesota. Upon information and belief, Pay Child Support is incorporated under the laws of the State of

Minnesota and has transacted business directly pertinent to this case in Minneapolis, Minnesota. Daniel King is domiciled in Richfield, Minnesota and has committed acts directly pertinent to the causes of action asserted in this case in Minneapolis and/or St. Paul, Minnesota.

Additional Parties

40. Daniel King is a proper party to this lawsuit under Rules 13(h) and 20(a) of the Federal Rules of Civil Procedure. ACS State & Local is asserting against Pay Child Support and Daniel King jointly, severally, or in the alternative, counts under the Counterclaim relating to the Lanham Act, the Minnesota Deceptive Trade Practices Act, and the common law tort of defamation of a business organization. ACS State & Local's right to relief under these counts arise out of the same transaction, occurrence, or series of transactions or occurrences, and questions of law or fact common to Pay Child Support and Daniel King. ACS State & Local is also asserting against Daniel King a count under the Counterclaim relating to fraudulent misrepresentation.

41. Upon information and belief, Daniel King is domiciled at 6600 Pleasant Avenue, Suite 143, Richfield, MN 55423. Pay Child Support also has the same address of 6600 Pleasant Avenue, Suite 143, Richfield, MN 55423, identified in its Certificate of Incorporation with the State of Minnesota. (See Exhibit 1.) Paragraph 4 of the Complaint alleges that Pay Child Support's principle place of business is 9000 Telford Crossing, Minneapolis, MN 55443. Upon information and belief, Programming Solutions, Inc. ("PSI"), a corporation organized under the laws of the State of Minnesota, has a principle place of business at 9000 Telford Crossing, Minneapolis, MN 55443.

42. Daniel King was the President and CEO of Pay Child Support identified in Pay Child Support's December 2001 D&B report. (See Exhibit 2.) Upon information and belief, Daniel King allegedly resigned from his position as President only on June 10, 2002. Upon information and belief, Daniel King did not resign his position as CEO of Pay Child Support and is currently an active officer and/or board member of Pay Child Support and/or has a continuing corporate presence at Pay Child Support. Upon information and belief, Daniel King is the sole shareholder and/or controlling shareholder of Pay Child Support.

43. Upon information and belief, Daniel King was the Minnesota Director of Tier Technologies, and in this capacity, acted as the state contact for the Minnesota State Disbursement Unit ("SDU") electronic funds transfer/electronic data interchange ("EFT/EDI") child support payments in Minnesota until June 18, 2002.

44. Pay Child Support is incorporated under the laws of the State of Minnesota, does business in this judicial district, and has committed and is continuing to commit acts of infringement in Minnesota. Upon information and belief, Pay Child Support uses, sells, and/or offers for sale electronic child support services or child support payment systems in this judicial district. Moreover, upon information and belief, Pay Child Support has engaged in business in this judicial district by reason of its contacts with the State of Minnesota to become a recognized supplier of electronic child support services or child support payment systems in this judicial district and throughout the State of Minnesota.

45. Daniel King has committed a fraudulent misrepresentation against ACS State & Local by intentionally concealing his affiliation as President and CEO of Pay Child Support from ACS State & Local when specifically asked about any such involvement. As a result of such

fraudulent misrepresentation, Daniel King gained access to ACS State & Local's sensitive sites and ACS State & Local's confidential and proprietary information and materials.

46. Pay Child Support and Daniel King have violated Section 43(a) of the Lanham Act, have violated the Minnesota Deceptive Trade Practices Act ("MDTPA"), and have committed defamation of a business organization in Minnesota by making a false, misleading, and defamatory statement against ACS State & Local in a June 10, 2002 email communication that was sent to approximately 70 people in the child support payment industry. The false, misleading, and defamatory statement was that the patent applicant (ACS State & Local and John Polk) was aware of prior art that invalidated its patent and purposefully withheld that prior art from the U.S. Patent and Trademark Office. Without having any basis whatsoever for this assertion, Pay Child Support and Daniel King smeared ACS State & Local's reputation by representing to a significant portion of the child support payment industry that ACS State & Local was guilty of fraud in obtaining its patents.

Count 1:
Infringement of U.S. Patent No. 5,946,669

47. ACS State & Local incorporates by reference its responses and allegations contained in Paragraphs 1 through 46 of the Answer and Counterclaim as if fully set forth herein.

48. On September 30, 1997, patent application Serial No. 08/941,187 ("the '187 application"), entitled "Method and Apparatus for Payment Processing Using Debit-Based Electronic Funds Transfer and Disbursement Processing Using Addendum-Based Electronic Data Interchange," was filed in the U.S. Patent and Trademark Office ("USPTO"). The '187 application was assigned to Lockheed Martin Corporation, and this assignment was recorded

with the USPTO on September 30, 1997 at Reel 8833, Frame 0754. The '187 application issued as U.S. Patent No. 5,946,669 ("the '669 patent") on August 31, 1999.

49. On March 27, 2001, Lockheed Martin Corporation transferred by assignment all rights, title, and interest to the '669 patent (and all divisions, continuations, and reissues thereof) to Lockheed Martin IMS Corporation. This assignment was recorded with the USPTO on April 6, 2001 at Reel 011675, Frame 0432.

50. On August 31, 2001, Lockheed Martin IMS Corporation filed a Certificate of Amendment with the State of New York Department of State, changing its name to ACS State & Local Solutions, Inc.

51. A Notice of Recordation of the name change to ACS State & Local Solutions, Inc. was filed with the USPTO and was recorded with the USPTO on October 18, 2001 at Reel 012263, Frame 0401.

52. Upon information and belief, Pay Child Support has directly infringed under 35 U.S.C. § 271(a), has actively induced infringement under 35 U.S.C. § 271(b), and/or has contributed to infringement under 35 U.S.C. § 271(c) in the District of Minnesota and elsewhere throughout the United States, by unlawfully making, using, selling, and/or offering for sale, and/or inducing others to do so, and/or contributing to others to do so, a method and system for electronic child support services or child support payment systems covered by one or more claims of the '669 patent, to the damage of ACS State & Local. Pay Child Support admits infringement of one or more claims of the '669 patent in Paragraph 13 of the Complaint.

53. Upon information and belief, Pay Child Support has willfully infringed the '669 patent by acting in willful disregard of ACS State & Local's patent rights.

54. Pay Child Support does not have a license or other authorization to utilize the inventions described and claimed in the '669 patent.

55. By reason of the aforesaid acts of infringement by Pay Child Support, ACS State & Local has been irreparably harmed and suffered damages, and ACS State & Local will continue to be irreparably harmed and suffer damages by such conduct.

Count 2:
Infringement of U.S. Patent No. 6,119,107

56. ACS State & Local incorporates by reference its responses and allegations contained in Paragraphs 1 through 55 of the Answer and Counterclaim as if fully set forth herein.

57. On January 7, 1998, patent application Serial No. 09/003,941 ("the '941 application"), entitled "Method and Apparatus for Payment Processing Using Debit-Based Electronic Funds Transfer and Disbursement Processing Using Addendum-Based Electronic Data Interchange," was filed in the U.S. Patent and Trademark Office ("USPTO") based on the earlier-filed '187 application, which was filed on September 30, 1997. The '941 application was assigned to Lockheed Martin Corporation, and this assignment was recorded with the USPTO on January 7, 1998 at Reel 8948, Frame 0718. The '941 application issued as U.S. Patent No. 6,119,107 ("the '107 patent") on September 12, 2000.

58. On March 27, 2001, Lockheed Martin Corporation transferred by assignment all rights, title, and interest to the '107 patent (and all divisions, continuations, and reissues thereof) to Lockheed Martin IMS Corporation. This assignment was recorded with the USPTO on April 6, 2001 at Reel 011675, Frame 0432.

59. On August 31, 2001, Lockheed Martin IMS Corporation filed a Certificate of Amendment with the State of New York Department of State, changing its name to ACS State & Local Solutions, Inc.

60. A Notice of Recordation of the name change to ACS State & Local Solutions, Inc. was filed with the USPTO and was recorded with the USPTO on October 18, 2001 at Reel 012263, Frame 0521.

61. Upon information and belief, Pay Child Support has directly infringed under 35 U.S.C. § 271(a), has actively induced infringement under 35 U.S.C. § 271(b), and/or has contributed to infringement under 35 U.S.C. § 271(c) in the District of Minnesota and elsewhere throughout the United States, by unlawfully making, using, selling, and/or offering for sale, and/or inducing others to do so, and/or contributing to others to do so, a method and system for electronic child support services or child support payment systems covered by one or more claims of the '107 patent, to the damage of ACS State & Local. Pay Child Support admits infringement of one or more claims of the '107 patent in Paragraph 13 of the Complaint.

62. Upon information and belief, Pay Child Support has willfully infringed the '107 patent by acting in willful disregard of ACS State & Local's patent rights.

63. Pay Child Support does not have a license or other authorization to utilize the inventions described and claimed in the '107 patent.

64. By reason of the aforesaid acts of infringement by Pay Child Support, ACS State & Local has been irreparably harmed and suffered damages, and ACS State & Local will continue to be irreparably harmed and suffer damages by such conduct.

Count 3:
Fraudulent Misrepresentation

65. ACS State & Local incorporates by reference the allegations contained in Paragraphs 1 through 64 of the Answer and Counterclaim as if fully set forth herein.

66. Daniel King has engaged in fraudulent misrepresentation in communications with ACS State & Local under Minnesota common law by making false representations to ACS State & Local in March through April of 2002.

67. Daniel King was at ACS State & Local's proposal center located at 1133 15th Street NW, Washington, DC as a representative of Tier Technologies on or about March 18, 2002 to work on a proposal for the Ohio SDU, and John Polk, an employee of ACS State & Local, specifically asked Daniel King if he or Tier Technologies were involved in Pay Child Support Online, explaining that such involvement would be a conflict of interest and would preclude access to the proposal center.

68. Daniel King replied that Tier Technologies was not involved with Pay Child Support in any way, intentionally omitting any reference to his role as President and CEO of Pay Child Support. Daniel King was President and CEO of Pay Child Support and his representation was false and misleading in that it concealed his involvement with Pay Child Support from ACS State & Local. Daniel King's intentional nondisclosure of his affiliation with Pay Child Support, a competitor of ACS State & Local, constituted a fraudulent misrepresentation. Daniel King purposefully made this fraudulent misrepresentation to allow him to have continued access to a competitor's proprietary information.

69. Daniel King made the fraudulent misrepresentation in Paragraph 68 with deliberate disregard for the rights of ACS State & Local.

70. Daniel King intended to induce ACS State & Local to rely on his fraudulent misrepresentation, and ACS State & Local did rely on his fraudulent misrepresentation. ACS State & Local was induced to allow Daniel King to be involved in its proprietary proposals for electronic child support services and child support payment systems in multiple states, and to provide him access to its proposal center in the District of Columbia and its SDU operation in Pennsylvania in reliance upon his fraudulent misrepresentation.

71. While in the District of Columbia proposal center, Daniel King attended strategy sessions and had access to ACS State & Local's confidential and proprietary materials, including proposals for electronic child support services and child support payment systems for multiple states, vendor lists, and rate and discount information.

72. While in the Pennsylvania SDU, Daniel King had access to the operation, including its confidential solution components and equipment configurations, and upon information and belief, took back to Minnesota forms, logs, and other confidential and proprietary support documentation that would support the proposal effort and ultimate operation.

73. Only after being confronted again by ACS State & Local on or about April 7, 2002 with unequivocal documentation of his affiliation with Pay Child Support, Daniel King finally conceded that he was President and CEO of Pay Child Support. At this point in time when Daniel King admitted the falsity of his earlier representation, Mr. King had been allowed in ACS State & Local's District of Columbia proposal center and the Pennsylvania SDU for approximately three (3) weeks.

74. As a result of Daniel King's fraudulent misrepresentation, ACS State & Local has been irreparably harmed and suffered damages, including the disclosure of its confidential and proprietary information to a competitor, and ACS State & Local will continue to be irreparably harmed and suffer damages by such conduct.

Count 4:
Unfair Competition under Section 43(a) of the Lanham Act

75. ACS State & Local incorporates by reference its responses and allegations contained in Paragraphs 1 through 74 of the Answer and Counterclaim as if fully set forth herein.

76. Pay Child Support and Daniel King have engaged in unfair competition against ACS State & Local under 15 U.S.C. § 1125(a) by making false and misleading statements about ACS State & Local and ACS State & Local's system, www.expertpay.com, in an email sent on June 10, 2002, attached as Exhibit 3, to third parties in the District of Minnesota and elsewhere throughout the United States. The false and misleading statement was that the patent applicant (ACS State & Local and John Polk) was aware of prior art that invalidated its patent and purposefully withheld that prior art from the U.S. Patent and Trademark Office. This false and misleading statement was made through an unsolicited email sent to approximately 70 people involved in the child support payment industry. Daniel King sent the email while he was President and CEO of Pay Child Support, a competitor of ACS State & Local. Upon information and belief, Daniel King and Pay Child Support purposefully deceived the industry to damage the reputation of a competitor (ACS State & Local) and obtain a commercial advantage.

77. Pay Child Support's and Daniel King's false and misleading email is a material misrepresentation and, upon information and belief, actually deceived third parties that received

the email and had the tendency to deceive a substantial segment of the audience that received the email.

78. Pay Child Support's and Daniel King's false and misleading email entered interstate commerce, and Pay Child Support's and Daniel King's system, as described at www.paychildsupportonline.com, also enters interstate commerce and includes, upon information and belief, customers in Minnesota.

79. As a result of Pay Child Support's and Daniel King's false and misleading email communication to approximately 70 people in the child support payment industry, ACS State & Local's goodwill has been injured, ACS State & Local has been irreparably harmed, and ACS State & Local will continue to be irreparably harmed and suffer injury by such conduct.

Count 5:
Unfair Competition under the Minnesota Deceptive Trade Practices Act

80. ACS State & Local incorporates by reference its responses and allegations contained in Paragraphs 1 through 79 of the Answer and Counterclaim as if fully set forth herein.

81. Upon information and belief, Pay Child Support and Daniel King have engaged in unfair competition against ACS State & Local under Minn. Stat. § 325D.44 by making false and misleading statements about ACS State & Local and ACS State & Local's system, www.expertpay.com, in an email sent on June 10, 2002, attached as Exhibit 3, to third parties in the District of Minnesota and elsewhere throughout the United States. The false and misleading statement was that the patent applicant (ACS State & Local & John Polk) was aware of prior art that invalidated its patent and purposefully withheld that prior art from the U.S. Patent and Trademark Office. This false and misleading statement was made through an unsolicited email

sent to approximately 70 people involved in the child support payment industry. Daniel King sent the email while he was President and CEO of Pay Child Support, a competitor of ACS State & Local. Upon information and belief, Daniel King and Pay Child Support purposefully deceived the industry to damage the reputation of a competitor (ACS State & Local) and obtain a commercial advantage.

82. Pay Child Support and Daniel King willfully disparaged the goods, services, and/or business of ACS State & Local with a false and misleading representation of fact that the patent applicant was aware of prior art that invalidated its patent and purposefully withheld that prior art from the U.S. Patent and Trademark Office.

83. As a result of Pay Child Support's and Daniel King's false and misleading email, ACS State & Local's goodwill has been injured, ACS State & Local has been irreparably harmed, and ACS State & Local will be continue to be irreparably harmed and suffer injury by such conduct.

Count 6:
Defamation of a Business Organization

84. ACS State & Local incorporates by reference the allegations contained in Paragraphs 1 through 83 of the Answer and Counterclaim as if fully set forth herein.

85. Upon information and belief, Pay Child Support and Daniel King have engaged in the tortious conduct of defamation of a business organization against ACS State & Local under Minnesota law by publishing defamatory statements about ACS State & Local in an email sent on June 10, 2002, attached as Exhibit 3, to third parties in the District of Minnesota and elsewhere throughout the United States. The defamatory statement was that the patent applicant

was aware of prior art that invalidated its patent and purposefully withheld that prior art from the U.S. Patent and Trademark Office. This defamatory statement was made to approximately 70 people involved in the child support payment industry.

86. One or more of the statements Pay Child Support and Daniel King published on June 10, 2002 were false in some material particular. More specifically, Pay Child Support and Daniel King had to have known the statement that the patent applicant purposefully withheld known prior art from the U.S. Patent and Trademark Office was false and in reckless disregard of the truth, because Pay Child Support and Daniel King could not possibly know what the patent applicant (e.g., the inventor, John Polk) knew at the time it submitted its patent application to the U.S. Patent and Trademark Office. Pay Child Support and Daniel King made no attempt whatsoever to confirm this serious allegation of fraud before that allegation was disseminated throughout the relevant child support payment industry through the email communication.

87. Upon information and belief, Pay Child Support and Daniel King published the statements on June 10, 2002 with actual malice and deliberate disregard for the rights of ACS State & Local, with the intent to taint ACS State & Local's reputation in the child support payment industry and to thereby gain a competitive advantage.

88. As a result of Pay Child Support's and Daniel King's publication on June 10, 2002, ACS State & Local has been irreparably harmed and has suffered damages, and ACS State & Local will continue to be irreparably harmed and suffer damages by such conduct.

PRAYER FOR RELIEF

Wherefore, Defendant and Counter-Plaintiff ACS State & Local denies that Plaintiff Pay Child Support is entitled to any of the relief prayed for in the Complaint, and prays for a final

judgment against Plaintiff and Counter-Defendant Pay Child Support denying the relief requested in Paragraphs A-L of the Complaint; and

Wherefore, based on the Counterclaim, Defendant and Counter-Plaintiff ACS State & Local respectfully requests that this Court enter an Order providing:

A. That Pay Child Support has infringed U.S. Patent Nos. 5,946,669 and 6,119,107 under 35 U.S.C. § 271(a), has actively induced infringement under 35 U.S.C. § 271(b), and/or has contributorily infringed under 35 U.S.C. § 271(c);

B. That Pay Child Support, Pay Child Support's officers, agents, servants, employees, and attorneys, and those in active concert or participation with them, be preliminarily and permanently enjoined from infringing U.S. Patent Nos. 5,946,669 and 6,119,107 pursuant to 35 U.S.C. § 283;

C. That ACS State & Local be awarded damages pursuant to 35 U.S.C. § 284 to compensate for Pay Child Support's infringement of U.S. Patent Nos. 5,946,669 and 6,119,107;

D. That ACS State & Local be awarded treble damages pursuant to 35 U.S.C. § 284 and attorneys' fees pursuant to 35 U.S.C. § 285 for Pay Child Support's willful infringement of U.S. Patent Nos. 5,946,669 and 6,119,107;

E. That ACS State & Local be granted pre-judgment and post-judgment interest on the damages caused by reason of Pay Child Support's infringement of U.S. Patent Nos. 5,946,669 and 6,119,107;

F. That the Court adjudge and decree that U.S. Patent Nos. 5,946,669 and 6,119,107 are not invalid and are enforceable, and that ACS State & Local has the right to sue and recover for Pay Child Support's infringement of U.S. Patent Nos. 5,946,669 and 6,119,107.

G. That Daniel King has committed a fraudulent misrepresentation against ACS State & Local under Minnesota common law;

H. That ACS State & Local be awarded compensatory damages to compensate for the damages caused to ACS State & Local by Daniel King's fraudulent misrepresentation;

I. That ACS State & Local be awarded punitive damages against Daniel King for committing a fraudulent misrepresentation against ACS State & Local;

J. That Pay Child Support and Daniel King have violated Section 43(a) of the Lanham Act as codified at 15 U.S.C. § 1125(a);

K. That Pay Child Support and Daniel King be enjoined from disparaging ACS State & Local's goods, services, and/or business by making false and misleading statements in violation of Section 43(a) of the Lanham Act as codified at 15 U.S.C. § 1125(a);

L. That ACS State & Local be awarded damages, costs, and attorneys' fees suffered as a result of Pay Child Support's and Daniel King's willful violation of Section 43(a) of the Lanham Act pursuant to 15 U.S.C. § 1117;

M. That Pay Child Support and Daniel King have violated the Minnesota Deceptive Trade Practices Act ("the MDTPA") under Minn. Stat. §§ 325D.43-.48;

N. That Pay Child Support and Daniel King be enjoined from disparaging ACS State & Local's goods, services, and/or business by making false and misleading statements under the MDTPA pursuant to Minn. Stat. § 325D.45(1);

O. That ACS State & Local be awarded costs incurred as a result of Pay Child Support's and Daniel King's violation of the MDTPA, pursuant to Minn. Stat. § 325D.45(2);

P. That ACS State & Local be awarded attorneys' fees incurred as a result of Pay Child Support's and Daniel King's violation of the MDTPA, pursuant to Minn. Stat. § 325D.45(2);

Q. That Pay Child Support and Daniel King have defamed ACS State & Local under Minnesota common law;

R. That ACS State & Local be awarded damages to compensate for the harm caused to ACS State & Local by Pay Child Support's and Daniel King's defamation of ACS State & Local;

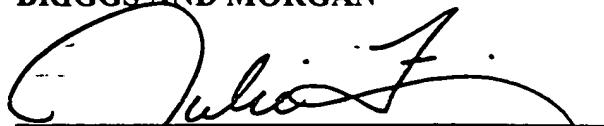
S. That ACS State & Local be awarded punitive damages against Pay Child Support and Daniel King for defaming ACS State & Local;

T. That ACS State & Local be granted pre-judgment and post-judgment interest on any damages caused by reason of Pay Child Support's and Daniel King's acts against ACS State & Local, including fraudulent misrepresentation, Lanham Act, and MDTPA violations, and defamation of a business organization; and

U. That ACS State & Local be granted such other and further relief as the equity of the case may require and this Court may deem just and proper, together with the costs and disbursements incurred in this action.

Date: July 31, 2002

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**ATTORNEYS FOR DEFENDANTS
AFFILIATED COMPUTER SERVICES,
INC., and ACS STATE & LOCAL, INC.**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing "Defendant and Counter-Plaintiff ACS State & Local Solutions Inc.'s Answer and Counterclaim" has been served on this 31 day of July, 2002, by hand delivery and Federal Express to:

Attorney for Pay Child Support Online Inc
Daniel J. King, Esq.
6600 Pleasant Ave., Suite 143
Richfield, MN 55423

and

Counter-Defendant
Daniel J. King
6600 Pleasant Ave., Suite 143
Richfield, MN 55423

By:

